

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 00-CR-50054

vs.

HON. BERNARD A. FRIEDMAN

JAMES DWIGHT LEWIS,

Defendant.

ORDER TRANSFERRING DEFENDANT'S "MOTION FOR REVIEW FOR REHEARING"
TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Defendant has filed a "motion for review for rehearing based on the U.S. Supreme Court's ruling in *Arizona v. Gant*, 129 S.Ct. 1710 (2008)" (docket entry 209). This motion, in which defendant argues that the court wrongfully denied his motion to suppress (see docket entry 37), challenges the legality of defendant's conviction. This motion therefore appears to be a second or successive 28 U.S.C. § 2255 motion, the first such motion having been filed on July 20, 2004 (see docket entry 144). A second or successive § 2255 motion "must be certified as provided in section 2244 by a panel of the appropriate court of appeals" Section 2255. When, as in this case, a second or successive § 2255 motion is filed without the required certification, the district court is required to transfer the motion to the court of appeals. *See In re Hanserd*, 123 F.3d 922, 934 (6th Cir.1997). Accordingly,

IT IS ORDERED that defendant's "motion for review for rehearing based on the U.S. Supreme Court's ruling in *Arizona v. Gant*, 129 S.Ct. 1710 (2008)" is hereby transferred to the United States Court of Appeals for the Sixth Circuit.

Dated: December 2, 2009
Detroit, Michigan

_____/s/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE